

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Misc. No.M- 36110 of 2017(O&M)

Date of Decision: December 13 , 2017.

Joginder @ Dhola PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Chanakya Pandit, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.187 dated 24.07.2017 under Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the SC/ST Act'), Sections 148/149/323/325/354/452/365/506/511/216 of the Indian Penal Code (for short, the 'IPC') and Section 25 of the Arms Act, registered at Police Station Israna, District Panipat.

It is submitted that the petitioner has been falsely implicated in the abovesaid FIR whereas the petitioner himself was a victim of an attack by a mob on 23.07.2017 at about 9.00 p.m. Learned counsel for the petitioner states that

the petitioner had in fact gone on his motorcycle to the area seeking labourers for certain jobs. As he reached in the alley near the house of complainant, a number of persons were seen standing close to the house of the complainant. The petitioner asked them to make way so that he could pass through. However, people standing there reacted by saying that the petitioner should also be taken to task. The petitioner was caught hold of by Naresh and Jai Bhagwan son of Deep Chand and attacked with knives by Mukesh son of Jai Bhagwan as well as Devender son of Om Parkash. It is submitted that the petitioner was admitted to PGI, Rohtak on 24.07.2017. Serious injuries as reflected in the Medico Legal Report (Annexure P2) were suffered by the petitioner, who remained admitted in the hospital till 14.08.2017. FIR No.118, under Sections 148/149/323/324/427 IPC was registered on the statement of the petitioner on 26.07.2017 when he was declared fit to make a statement (Annexure P3). It is thus submitted that the petitioner is not guilty of the offences as mentioned in the FIR No.187. No case under the SC/ST Act is made against the petitioner so as to attract the bar to grant anticipatory bail to the petitioner. Moreover, the petitioner has joined investigation. He is not involved in any other criminal case and he undertakes to face proceedings and not misuse the concession of anticipatory bail, if afforded to him. Therefore, it is prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State, on instructions from ASI Kapil, verifies that the petitioner was indeed admitted at the PGI Rohtak from 24.07.2017 till 14.08.2017. He is further unable to deny that even as per the allegations in the FIR, no overt act has been attributed to the petitioner. It is

verified that the petitioner has since joined investigation and is not involved in any other criminal case.

In respect to the bar of grant of anticipatory bail under the SC/ST Act, it has been held by the Hon'ble Supreme Court in Vilas Pandurang Pawar and Anr. v. State of Maharashtra and others, 2012(4) R.C.R. (Criminal) 761 a duty is cast on the Court to verify the averments and find out whether an offence under the SC/ST Act is made out. Prima facie, there do not appear to be any allegations against the petitioner in FIR No.187 dated 24.07.2017 to invite the rigours of the provisions of the SC/ST Act in the present case, though on considering the entire evidence, the learned trial Court may ultimately find the accused to be guilty.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. Consequently, order dated 03.10.2017 is made absolute.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

December 13, 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No